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11 Attorneys for Creditor
12 Sierra Pacific Power Company,
13 dba NV Energy

14
15 UNITED STATES BANKRUPTCY COURT
16 DISTRICT OF NEVADA

17 * * *

18 In re

19 Case No. BK-13-50301-MKN
20 Chapter 11

21 RODEO CREEK GOLD INC.

22 ☐ Affects this Debtor
23 ☒ Affects all Debtors
24 ☐ Affects Hollister Venture Corporation
25 ☐ Affects Touchstone Resources Company
26 ☐ Affects Antler Peak Gold Inc.

27 **NV ENERGY'S OBJECTION
28 TO PROPOSED CURE AMOUNT
FOR EXECUTORY CONTRACT
IN CONNECTION WITH THE
DEBTORS' PROPOSED
SALE OF ASSETS**

Hearing Date: May 2, 2013
Hearing Time: 1:30 p.m.

29 _____/

30 Sierra Pacific Power Company, dba NV Energy ("NVE"), by and through its
31 counsel Woodburn and Wedge, hereby submits its objections to Debtors' Sale Motion
32 (Docket No. 16) and responds to the Debtors' Notice of Possible Sale, Assumption
33 and Assignment of Certain Unexpired Leases and Executory Contracts and Sale

Hearing (Docket No. 121) ("Objection Notice") and the Debtors' Supplemental Notice of Possible Sale, Assumption and Assignment of Certain Unexpired Leases and Executory Contracts and Sale Hearing (Docket No. 154) ("Supplemental Objection Notice"). This Objection is supported by the Declaration Clyyene Cook filed contemporaneously herewith.

1. The Sale Motion seeks authority for the Debtors to sell all or substantially all of their assets at auction.

2. On March 8, 2013, the Debtors filed and served their Objection Notice. Attached to the Objection Notice was an Exhibit "A" which is a list of unexpired leases and executory contracts that might be assumed by a purchaser as part of the sale of the Debtors' assets. NVE is listed on the Exhibit "A" as having two contracts subject to possible assumption as follows:

Contract Counter-Party	Contract ID	Legal Entity	Contract Description	Cure Amount
NV Energy	185	Antler Peak Gold Rodeo Creek Gold	Line Extension Agreement, Design Cost Agreement, and High Voltage Distribution Agreement	\$4,487.69
Sierra Pacific Power Company	70	Rodeo Creek Gold	Utility Line Extension Agreement	\$.00

3. The Objection Notice provided that any objections to the Sale Motion, including any objection to proposed cure amounts, were due on April 8, 2013.

4. On March 15, 2013, the Debtors filed and served the Supplemental Objection Notice. The Supplemental Objection Notice did not contain any different information regarding NVE's contracts, nor did it change the objection deadline.

1 5. On March 29, 2013, this Court entered an Amended Order regarding
2 the Sale Motion (Docket No. 286) in which it modified various dates and deadlines
3 relating to the proposed sale of the Debtors' assets. The date by which objections to
4 the sale are due was extended to April 26, 2013, but the date by which cure
5 objections were due was not changed.
6

7 6. NVE has searched its records for contracts with the Debtors that might
8 have been the contracts referenced in Exhibit "A" to the Objection Notice and the
9 Supplemental Objection Notice.
10

11 7. The first contract found related to a line extension/relocation project
12 NVE contracted with Antler Peak Gold (the "Antler Peak Project"). That project,
13 however, has been completed and Antler Peak still owes NVE \$32,638.69. From
14 NVE's perspective, the Antler Peak contract does not appear to be an executory
15 contract for which a cure could be claimed.
16

17 8. The second contract related to a line extension/relocation project for
18 which NVE contracted with Rodeo Creek Gold. That project was known as the
19 Hollister Mine Project located near Elko, Nevada. The details of that project are
20 detailed in the Declaration of Clyyne Cook filed contemporaneously herewith. She
21 reports that:

22 A. The estimated cost of the building the Project was
23 \$1,560,000. See, *Declaration of Clyyne Cook*, p. 2, ¶ 7.

24 B. Pursuant to the contract payment schedule, Rodeo Creek
25 was to pre-pay the full estimated cost of the Project to NVE pursuant to
the following schedule:

26 Upon Execution of HVDA	\$318,000
27 January 2, 2012	\$562,000
28 April 2, 2012	\$680,000

1 *Id.*, p. 2, ¶ 9.

2
3 C. To date Rodeo Creek has only paid \$906,190 to NVE for
the Project even though \$1,560,000 is due. *Id.*, p. 3, ¶ 9.

4 D. The estimated price of the Project did not include a tax
5 gross-up, but, pursuant to the contract, Rodeo Creek would be
6 responsible for the tax gross up amount that would become due. It is
estimated the tax gross-up would be \$464,470. *Id.*, p. 3, ¶ 10

7 E. To date, NVE has incurred labor and material costs for the
8 Project, including overheads, totaling \$356,330. *Id.*, p. 3, ¶ 11.

9 F. If Rodeo Creek were to assume the contract, it, or a
10 successor in interest, would have to pay NVE the additional sum of
\$1,144,470 consisting of the balance due on the estimated Project cost
11 and the tax gross-up of \$464,470 before NVE would be required to
complete construction of the Project. *Id.*, p. 2, ¶ 12.

12 G. If Rodeo Creek rejects the Contract, it would be entitled to
13 a refund of part of the \$906,190 paid to NVE. NVE has incurred some
14 costs that cannot be recovered (e.g. labor) while other costs (e.g.
material purchases that can be re-used) might be recoverable in whole
15 or in part. At this time, the best estimate of the refund that would be
16 available to Rodeo if it rejected the Contract would be \$671,841. *Id.*, p.
3, ¶ 13.

17 9. To the extent the Debtors' stated cure amount of \$.00 may be
18 referencing the Antler Creek Project, the cure number would be accurate. If,
19 however, the Debtors are referring to the Hollister Mine Project, there is a significant
20 amount due NVE that would have to be cured upon assumption of the project.
21 Rodeo Creek needed to advance \$1,560,000 to NVE for the project, it has only
22 advanced \$906,190 and, therefore, the cure amount necessary should the Antler
23 Peak agreement be assumed would be \$653.810.
24

25 For the reasons set forth above, NVE submits that should the Hollister Mine
26 contract be assumed pursuant to the provisions of 11 USC § 365, Rodeo Creek or
27
28

1 any successor in interest would have to pay NVE \$753,810 to cure Rodeo Creek's
2 existing default in accordance with the provisions of 11 USC § 365..
3

4 DATED this 5th day of April, 2013.

5 WOODBURN AND WEDGE
6

7
8 By _____

9 John F. Murtha, Esq.
10 Attorneys for Creditor
11 NV Energy
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CERTIFICATE OF SERVICE

I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Road, Suite 500, Reno, Nevada 89511, and that on the 5th day of April, 2013, I served the foregoing document(s) described as follows:

NV Energy's Objection to Proposed Cure Amount for Executory Contract in Connection with the Debtors' Proposed Sale of Assets

On the party(s) set forth below by:

_____ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

_____ Personal delivery.

_____ Facsimile (FAX).

 X Federal Express or other overnight delivery.

_____ Electronically filed.

addressed as follows:

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Dated this 5th day of April, 2013.

By: Karen M. Moore
Employee of Woodburn and Wedge